IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 16582 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAKESHSINGH R.RAJPUT - Petitioner(s)
Versus
STATE OF GUJARAT THR' SECRETARY & 1 - Respondent(s)

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Appearance :
MR TEJAS M BAROT for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 30/04/2007

ORAL JUDGMENT

1. In this petition, the petitioner has challenged order dtd.09th September, 2003 passed by respondent no.2 whereby the license of the

petitioner to possess gun is cancelled. The said order was challenged in Appeal before respondent no.1 by the petitioner. The respondent no.1 by order dtd.12th August, 2004 dismissed the Appeal No.566 of 2003 and confirmed the order of respondent no.2. The petitioner has challenged these orders on the ground that the said orders are non-speaking orders and hence, they are in violation of provisions of Section 17 of the Arms Act, 1959. From the record of the petition it appears that the petitioner was granted license in pursuance of application made by him on 13th June, 2001. Petitioner possesses 12 bore gun of France made. The petitioner was issued show cause notice dtd.13.05.2003 under the provisions of Section 17(3) of the Arms Act. By the said notice, he was called upon to show cause why his license should not be cancelled. The said notice was replied to by the petitioner. The petition was heard by respondent no.2, and, thereafter he passed an order dtd.09th September, 2003 whereby he cancelled the license of the petitioner keeping in view the allegation made in the show cause notice against the petitioner. The show cause notice shows that the

retainer who is nominated by the petitioner viz.Shri Raghuvanshmani Jagatram Tiwari, is involved in criminal cases wherein he has used petitioner's weapon. The First Information Report at C.R.No.107 of 2003 registered with Naroda Police Station was filed for the offences punishable under Sections 307, 452, 506(2), 295(b) and 114 of the Indian Penal Code and under Sections 3 and 27 of the Arms Act. Another offence bears C.R.No.155 of 1996 was filed against retainer for the offences punishable under Sections 324, 323, 342, 506(2), 118 and 114 of Indian Penal Code and Section 135 (i) of the Bombay Police Act. The third offence was registered again at Naroda Police Station being Sessions C.R.No.3088 of 2002 for the alleged commission of offence made punishable under Sections 294(b), 323, 506(2) and 114 of the Indian Penal Code and Section 135(1) of Bombay Police Act. The fourth offence has been registered being C.R.No.3054 of 2003 under Section 185 of the M.V. Act, under Section 110 of the Bombay Police Act and under Section 3 and 27 of the Arms Act.

2. It is submitted by Mr.Barot that sofar as the offence registered vide C.R.No.155 of 1996 is concerned, it was registered prior to issuance of license to the petitioner, whereas in C.R.No.3088 of 2002, “B” summary was filed by the police. Therefore, according to Mr.Barot, the authority i.e. respondent no.2 passed order on the material which was not relevant and worth considering. He has further submitted that under Section 17, respondent no.2 was required to give reasons for cancelling license, but that has not been done. He has placed reliance on the decision of the Division Bench rendered in the case of **Ratilal Bhogilal Shah Vs. State of Gujarat** reported in **AIR 1966 (Guj.) P-244.**

3. As against that Ms.Kiran Pandey, learned AGP has submitted that considering criminal history of the petitioner, the authority was well within its bounds to cancell the license. She has further submitted that respondent no.2 as well as respondent no.1 have given adequate reasons for cancelling the license. She has therefore submitted that there is no merit in the

petition.

4. I have carefully considered the rival submission and I have also perused the record of the petition. Sofar as impugned order i.e. Order dtd.09th September, 2003 is concerned, it shows respondent no.2 has referred to the offences which are registered against the petitioner. He has, therefore, formed an opinion that the petitioner is having criminal mind and is likely to commit serious offence in future. Sofar as Appellate Authority's order is concerned, it has also taken into consideration that various offences have been committed by the petitioner and ultimately has held that there was every possibility that petitioner would commit serious offence in future and that would cause breach of peace. May be that first offence has taken place prior to issuance of license, however, there are other offences which have taken place subsequently. It is true that in one case 'B' summary is granted. However, the contents of show cause notice as well as the orders of respondent no.2 and respondent no.1 clearly show that the petitioner has been indulging into

criminal activities and there is every possibility that in future he might commit serious offence. The apprehension expressed by the concerned authority is based on reasonable ground. The Petitioner nominated by person is also involved in criminal case wherein petitioner's gun has been used. When this is so, it is dangerous to allow the petitioner to hold the license to possess the gun. Some day it may be misused by him. I do not find any error having been committed by the respondents.

5. In view of the same, this petition has no merit and it is dismissed. Rule is discharged. There shall be no order as to costs.

(***AKSHAY H. MEHTA, J.***)

Amit/-